

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:

SKYPORT GLOBAL
COMMUNICATIONS, INC.,
Debtor

SkyPort Global Communications, Inc., Balaton
Group, Inc., and Robert Kubbernus,
Plaintiffs

Vs.

Joanne Schermerhorn, John K. Waymire, Chet
Gutowsky, John Llewellyn, Joseph A. Lopez,
Robert Foote, BLF Partners, Ltd., ECAL Partners,
Ltd, Whiz Kid Ventures, LLC, Bella Krieger,
Martin Pollak, Gloster Holdings, LLC, Melvyn
Reiser, Barry Klein, Yecheskel Kahan, John
A. Rees, Brian W. Harle, MD, Michael Stein,
Lawrence Solomon, Tracy Elstein & David
Togut, Jason Charles Togut Trust, BMT Grantor
Trust, Lynn Joyce Elstein Trust, Charles Stack,
Joseph Baker, Movada, Ltd., Puddy, Ltd., Draco
Capital, Inc., Edward Pascal, Robert Mendel,
Stanley Beraznik, Don Dui, Ben Ariano, 3790168
Canada, Inc., Peter Taylor, John E. Panneton,
Wayne C. Fox, David Currie, Byron Messier,
Darshan Khurana, Mateo Novelli, Diya Al-Sarraj,
Sequoia Aggressive Growth Fund, Ltd., Sequoia
Diversified Growth Fund, Ltd., Rig III Fund, Ltd.,
Aran Asset Management SA, Semper Gestión
SA, and Eosphoros Asset Management, Inc.,
Defendants

CASE NO. 08-36737-H4-11
(Chapter 11)

ADVERSARY NO. 10-03225

WAIVER OF THE SERVICE OF SUMMONS

To: Edward L. Rothberg

I have received your request to waive service of summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 30 days from May 24, 2010, the date when this request was sent (or 90 days if sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: 5/26/10


W. Steve Smith
Signature of attorney or unrepresented party

W. Steve Smith
Printed name of party waiving service of summons

W. Steve Smith
Printed name

1331 Lamar St., Ste. 1250, Houston, TX 77010
Address

ssmith@mcfall-law.com
E-mail address

713.540.9300 ext. 9380
Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does not include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.